

RECEIVED
IN MONROE, LA

FEB 02 2006

ROBERT H. SHEWELL, CLERK
WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

BRENDA HUTCHINSON, ET AL.

CIVIL ACTION NO.: 05-1332

VERSUS

JUDGE ROBERT G. JAMES

DOLLAR GENERAL CORPORATION,
ET AL.

MAG. JUDGE KAREN L. HAYES

MEMORANDUM ORDER

On November 3, 2005, Defendant Dolgencorp, Inc. filed a "Motion to Appeal Decision of Magistrate Judge" [Doc. No. 24], appealing the October 19, 2005 Order of Remand [Doc. No. 21] issued by Magistrate Judge Karen L. Hayes. On November 18, 2005, Plaintiffs filed a Memorandum in Opposition to Defendants' Motion to Appeal Decision of Magistrate Judge [Doc. No. 27].

The Fifth Circuit has not addressed what standard should be applied to a district court's review of a magistrate judge's ruling on a motion to remand. However, district courts in this circuit have generally found that a motion to remand is a non-dispositive pretrial matter and have applied the clearly erroneous/contrary to law standard pursuant to 28 U.S.C. § 636(b)(1)(A) and Rule 72(a) of the Federal Rules of Civil Procedure. *See, e.g., Lonkowski v. R.J. Reynolds Tobacco Co.*, No. 96-1192, 1996 WL 888182, at *2-4 (W.D. La. Dec. 10, 1996), *Vaquillas Ranch Co., Ltd. v. Texaco Exploration and Production, Inc.*, 844 F. Supp. 1156, 1162 (S.D. Tex. 1994). This Court agrees and applies the clearly erroneous standard of review.

Following a review of the record, together with the parties' memoranda, the Court finds that Magistrate Judge Hayes' Order of Remand is not clearly erroneous nor contrary to the law.

Accordingly,

IT IS ORDERED that Defendant Dolgencorp, Inc.'s "Motion to Appeal Decision of Magistrate Judge" [Doc. No. 24] is DENIED, and the October 19, 2005 Order of Remand [Doc. No. 21] issued by Magistrate Judge Karen L. Hayes is AFFIRMED. This case is REMANDED to the Fourth Judicial District Court, Parish of Morehouse, State of Louisiana, for further proceedings.

MONROE, LOUISIANA, this 1 day of February, 2006.

A handwritten signature in black ink, appearing to read "Robert G. James", is written over a horizontal line.

ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE